



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 250828-0148]

RIN 0648-BN20

Pacific Island Fisheries; Annual Catch Limit and Accountability Measures; Main Hawaiian Islands Deep 7 Bottomfish for Fishing Years 2024-2025, 2025-2026, and 2026-2027

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement an annual catch limit (ACL) for Deep 7 bottomfish in the main Hawaiian Islands (MHI) for fishing years 2024-2025, 2025-2026, and 2026-2027. The fishing year for the fishery begins on September 1 and ends on August 31 of the following year. This rule does not revise, add, or remove the current accountability measures (AM). The proposed rule supports the long-term sustainability of the Deep 7 bottomfish fishery.

DATES: NMFS must receive comments by *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: A plain language summary of this proposed rule is available at: <https://www.regulations.gov/docket/NOAA-NMFS-2024-0090>. You may submit comments on the proposed rule, identified by NOAA-NMFS-2024-0090, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and type NOAA-NMFS-

2024-0090 in the Search box, Click the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Sarah Malloy, Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

NMFS prepared an environmental assessment and draft supplemental environmental assessment that describe the potential impacts on the human environment that could result from the proposed action. The assessments, a regulatory impact review, and other supporting documents are available at: <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Pua Borges, NMFS PIRO Sustainable Fisheries, 808-725-5813.

SUPPLEMENTARY INFORMATION: NMFS and the Western Pacific Fishery Management Council (Council) manage the Deep 7 bottomfish fishery in Federal waters around Hawaii under the Fishery Ecosystem Plan for the Hawaii Archipelago (FEP), as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Implementing regulations at 50 CFR 665.4 require NMFS to specify an ACL for MHI Deep 7 bottomfish each fishing year based on a recommendation from the Council. The fishing year for MHI Deep 7 bottomfish begins

on September 1 and ends on August 31 of the following year. The Deep 7 bottomfish are lehi (*Aphareus rutilans*), ehu (*Etelis carbunculus*), onaga (*E. coruscans*), hapuupuu (*Hyporthodus quernus*), opakapaka (*Pristipomoides filamentosus*), kalekale (*P. sieboldii*), and gindai (*P. zonatus*).

NMFS proposes this action under section 303(c) and section 304(b) of the Magnuson-Stevens Act. Consistent with a recommendation for the MHI Deep 7 bottomfish fishery made by the Council at their 200th meeting in October 2025, NMFS proposes to implement a new ACL of 493,000 pounds (lb) (223,621 kilograms (kg)) for fishing years 2024-2025, 2025-2026, and 2026-2027 and retain the current AMs (50 CFR 665.211). The Council recommended the proposed ACL based on a 2024 benchmark stock assessment, and in consideration of the risk of overfishing, past fishery performance, and the acceptable biological catch recommendation from its Scientific and Statistical Committee, with opportunity for input from the public.

The 2024 stock assessment estimated the overfishing limit for the MHI Deep 7 bottomfish stock complex to be 545,000 lb (247,208 kg), assuming 3 years of identical catch in fishing years 2024-2025, 2025-2026, and 2026-2027. The proposed ACL would increase by only 0.2 percent from the 492,000 lb (223,167 kg) ACL that NMFS specified the previous 3 years (84 FR 29394, June 24, 2021). The proposed ACL is associated with up to a 39 percent probability of overfishing for each proposed fishing year, which is more conservative than the 40 percent probability associated with the previous ACL and the 50 percent risk threshold allowed under NMFS guidelines for National Standard 1 of the Magnuson-Stevens Act.

NMFS monitors Deep 7 bottomfish catches based on data provided by commercial fishermen to the State of Hawaii and non-commercial fishermen to NMFS. This proposed rule would not revise, add, or remove any of the current AMs, in alignment with the Council's recommendation. A current in-season AM requires NMFS

to close commercial and non-commercial fishing for MHI Deep 7 bottomfish in Federal waters for the remainder of the fishing year if it projects that the catch will reach the ACL. Additionally, a current post-season AM requires NMFS to reduce the ACL for the subsequent fishing year by the amount of the overage through a subsequent rulemaking if it determines that the final MHI Deep 7 bottomfish catch exceeds the ACL in any given year.

The fishery has not reached the proposed limit in any year since 1989, and NMFS does not anticipate that the fishery will attain the limit in any fishing year under this proposed rule. NMFS does not expect this proposed rule to result in a change in fishing operations, or other changes to the conduct of the fishery that would result in significant environmental impacts.

NMFS will consider public comments on this proposed rule and will announce the final rule in the **Federal Register**. The comment period will extend for 30 days from the publication date in the **Federal Register**, pursuant to section 304(b) of the Magnuson-Stevens Act (16 U.S.C. 1854(b)(1)(A)). NMFS must receive any comments by the date provided in the **DATES** heading, not postmarked or otherwise transmitted by that date. Regardless of the final rule, all other management measures will continue to apply in the fishery.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule is not an Executive Order 14192 regulatory action because this rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

NMFS proposes to implement an ACL of 493,000 lb (223,621 kg) for MHI Deep 7 bottomfish, as recommended by the Western Pacific Fishery Management Council, for each fishing year 2024-2025, 2025-2026, and 2026-2027. Each fishing year begins on September 1 and ends on August 31 of the following year. NMFS monitors MHI Deep 7 bottomfish catch based on data provided by commercial fishermen to the State of Hawaii and non-commercial fishermen to NMFS. The AMs for fishing years 2024-2025, 2025-2026, and 2026-2027 would remain the same as the AMs that are currently in place. If NMFS projects that the fishery will reach this limit in any fishing year, NMFS would close commercial and non-commercial fishing for MHI Deep 7 bottomfish in Federal waters for the remainder of that fishing year as an in-season AM. As a post-season AM, if the catch exceeds the ACL in a fishing year, NMFS will reduce the ACL of the next fishing year by the amount of the overage. The proposed ACL only increases the ACL implemented annually since the 2018-2019 fishing year (492,000 lb) (223,167 kg) by 0.2 percent. The proposed ACL is greater than the highest reported annual landings over the past eight fishing seasons by more than 180,000 lb (81,647 kg). Therefore, NMFS does not expect that the fishery will reach the ACL during any of the next 3 fishing years.

This rule would affect commercial and non-commercial fishermen who catch MHI Deep 7 bottomfish. A 2023 Pacific Island Fisheries Science Center (PIFSC) report,

based on data from fishery participants who voluntarily responded to a survey, indicated that an average of approximately 23 percent of individual commercial participants' overall income is attributed to MHI Deep 7 bottomfish. For Regulatory Flexibility Act (RFA) purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (50 CFR 200.2). A business primarily engaged in commercial finfish fishing (NAICS code 114111) is classified as a small entity if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all affected entities (*i.e.*, vessels in the commercial and non-commercial sectors of the MHI Deep 7 bottomfish fishery) are small entities under the NMFS standard, as they are engaged in the business of fish harvesting, independently owned or operated, not dominant in their field of operation, and have annual gross receipts not in excess of \$11 million. Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, there would be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

During the 2022-2023 fishing year, 359 fishermen reported catching 197,158 lb (89,429 kg) of MHI Deep 7 bottomfish, which is consistent with catch and participation in recent years. Price per pound for Deep 7 bottomfish in 2022-2023 averaged \$10.11 (\$22.05/kg) with 91 percent of catch sold. Assuming that the fishery attains the proposed ACL of 493,000 lb (223,621 kg), and using the 2022-2023 average price of \$10.11/lb, NMFS expects the potential annual fleet-wide revenue during each of the 2024-2025, 2025-2026 and 2026-2027 fishing years to be approximately \$4,535,649 under the assumption that 91 percent of catch is sold. If this revenue (91 percent of the proposed ACL sold at the 2022-2023 average price) was earned equally by 359 participants

(the number of fishermen in 2022-2023), the revenue per fisherman would be \$12,634, which is well below the \$11 million threshold.

Even though this proposed rule would apply to a substantial number of vessels, (*i.e.*, 100 percent of the bottomfish fleet) NMFS does not expect this rule to have a significantly adverse economic impact on individual vessels because it is unlikely that the ACL will be reached over the next three fishing seasons. The proposed rule would not impose additional reporting or record-keeping requirements on small entities. The proposed rule does not duplicate, overlap, or conflict with other Federal rules, and it is not expected to have a significant impact on small entities, organizations or government jurisdictions. There does not appear to be disproportionate economic impacts from the proposed rule based on home port, gear type, or relative vessel size. The proposed rule will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

List of Subjects in 50 CFR Part 665

Accountability measures, Annual catch limits, Bottomfish, Fishing, Hawaii, Pacific Islands, Western Pacific.

Dated: August 28, 2025.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665 – FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 665.211, revise paragraph (a) to read as follows:

§ 665.211 Annual Catch Limit (ACL).

(a) In accordance with § 665.4, the ACLs for MHI bottomfish fishery for each fishing year are as follows:

Fishery	2024-25 ACL (lb)	2025-26 ACL (lb)	2026-27 ACL (lb)
Deep 7 bottomfish	493,000	493,000	493,000

Fishery	2022 ACL (lb)	2023 ACL (lb)	2024 ACL (lb)	2025 ACL (lb)
Uku	295,419	295,419	295,419	295,419

Fishery	2022 ACT (lb)	2023 ACT (lb)	2024 ACT (lb)	2025 ACT (lb)
Uku	291,010	291,010	291,010	291,010

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